

**DIRECTV, INC., a California corporation,**

**Plaintiff,**

**v.**

**David Annand,**

**Defendant.**

No. 03-cv-12325 MLW

**PLAINTIFF'S SECOND MOTION FOR  
DEFAULT JUDGMENT**

Plaintiff hereby moves this Court for a Judgment by Default in the above-entitled action against the Defendant.

In support of this Motion, Plaintiff submits:

1. That a Default was docketed against the Defendant with reference to his failure to defend against the Amended Complaint in this action on July 13, 2005.
2. That the Defendant has still failed to reply or otherwise defend the claims set forth in Plaintiff's complaint;
3. That the Defendant is not an infant or incompetent;
4. That the Defendant is not in the military service;
5. The Amended Complaint in this action contained specific language with reference to the remedy upon default. Specifically, the default remedy provision provided that in the event of a default DIRECTV will seek:

“...an award of statutory damages of *up to \$10,000* for violations of 47 U.S.C. § 605(a), a further award of DIRECTV's reasonable attorneys' fees in the amount of \$850.00 and costs” (*emphasis added*)
6. That the Plaintiff is entitled to damages and other civil remedies as set forth below and as more fully set forth in the Memorandum of Law in Support of Plaintiff's Second Motion for Default Judgment.

In further support of this Motion, please see:

1. Memorandum of Law in Support of Plaintiff's Motion for Default Judgment.
2. Affidavit of Attorney John M. McLaughlin.
3. Affidavit of James Whalen
4. Proposed Order of Default.

**WHEREFORE** Plaintiff respectfully requests that this Court enter Default Judgment in favor of the Plaintiff and against the Defendant for the reasons set forth above (as further articulated in its Memorandum of Law in Support of Plaintiff's Second Motion for Default Judgment), DIRECTV respectfully requests that this Court award to DIRECTV:

- (1) Full statutory damages in the amount of \$9,000.00; and
- (2) Costs of \$208.10;
- (3) Attorneys' fees in the amount of \$850.00

Respectfully Submitted for the Plaintiff,  
DIRECTV, Inc.  
By Its Attorney

8/12/2005  
Date

/s/ John M. McLaughlin  
John M. McLaughlin (BBO: 556328)  
**Green, Miles, Lipton & Fitz-Gibbon LLP**  
P.O. Box 210  
77 Pleasant Street  
Northampton, MA 01061-0210  
(413) 586-0865

**CERTIFICATE OF SERVICE**

I, John M. McLaughlin, attorney for the Plaintiff, hereby certify that on August 12, 2005, I served a copy of the foregoing Second Motion for Default Judgment, Second Memorandum of Law, Proposed Judgment, Affidavit of John M. McLaughlin, and Affidavit of James Whalen were sent via first class mail, postage pre-paid to:

David Annand  
23 East Russell Mills Road  
Plymouth, MA 02360

/s/ John M. McLaughlin  
John M. McLaughlin